

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	) CR. NO.1:CR-00-119-02
	) (Chief Judge Kane)
v.	)
	)
TOM ELLIOTT, III	) (Electronically Filed)

**GOVERNMENT'S RESPONSE IN OPPOSITION TO MOTION FOR RELIEF PURSUANT  
TO TITLE 18 UNITED STATES CODE SECTION 3582(c)**

AND NOW comes the United States of America, by its undersigned counsel and submits the following Response in Opposition to the Defendant's Motion for Relief pursuant to Title 18 United States Code, Section 3582(c), setting forth the following material factors in support thereof:

1. The defendant was previously convicted and sentenced for offenses involving the distribution of cocaine base, also known as crack cocaine.

2. The defendant was originally sentenced to a term of 140 months' imprisonment, a sentence which represented a downward departure from the guidelines imprisonment range which the Court found to be applicable in this case, 151-188 months' imprisonment. That guidelines imprisonment range was based upon the Court's finding that the defendant's offense level was 29 and the

defendant's criminal history category was VI because the defendant is a career offender.

3. Following imposition of this sentence, in December 2007, the United States Sentencing Commission enacted an amendment to the sentencing guidelines, Amendment 706, which reduced the guidelines offense level for drug distribution and conspiracy offenses involving cocaine base by two offense levels and further provided that this amendment applied retroactively to defendants who were sentenced before the effective date of this amended guideline.

4. The defendant has now moved pursuant to Title 18, United States Code, Section 3582(c), for relief in accordance with this amended guidelines provision.

5. Upon review of the defendant's motion and the underlying facts of this case, the United States believes that the defendant is not entitled to request some relief pursuant to Title 18, United

States Code, Section 3582(c) since the defendant is a Career Offender.

Respectfully submitted,

MARTIN C.CARLSON  
United States Attorney

/S/WILLIAM A. BEHE  
WILLIAM A. BEHE  
Assistant U.S. Attorney  
228 Walnut Street  
Suite 220  
Harrisburg, PA 17108  
(717) 221-4482  
(717) 221-2246 (Facsimile)  
PA32284  
[william.behe@usdoj.gov](mailto:william.behe@usdoj.gov)

Dated: June 30, 2008

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

That this 30<sup>th</sup> day of June, 2008 she served a copy of the attached

GOVERNMENT'S RESPONSE IN OPPOSITION TO MOTION FOR RELIEF PURSUANT  
TO TITLE 18 UNITED STATES CODE SECTION 3582(c)

by electronic means and/or by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania to:

Tom Elliott  
10185-067  
FCI Schuylkill  
PO Box 759  
Minersville, PA 17954-1759

s/Phyllis M. Mitchell  
PHYLLIS M. MITCHELL  
Supervisory Legal Assistant

